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## BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

ROBERT "BOB" BURNS - Chairman  
BOYD DUNN  
SANDRA D. KENNEDY  
JUSTIN OLSON  
LEA MÁRQUEZ PETERSON

OCT 24 2019

DOCKETED BY

aa

In the matter of )

The Credit Engineers, Inc., a Florida )  
corporation, )David R. Kosack and Bryn Kosack, husband )  
and wife, )Ernie Barrueta a.k.a. Ernest A. Barrueta, )  
a.k.a Ernesto A. Barrueta, )

David J. Varrone, )

Respondents. )

DOCKET NO. S-21069A-18-0418

DECISION NO. 77426

**ORDER TO CEASE AND DESIST, ORDER  
FOR ADMINISTRATIVE PENALTIES, AND  
CONSENT TO SAME****ORDER TO DISMISS RE: BRYN KOSACK**

Respondents elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order to Cease and Desist, Order for Administrative Penalties, and Consent to Same ("Order"). Respondents admit the jurisdiction of the Arizona Corporation Commission ("Commission"); neither admit nor deny the Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the Commission.

**I.****FINDINGS OF FACT**

1. David R. Kosack ("Kosack") has been a resident of the state of Arizona at all relevant times.

2. David J. Varrone ("Varrone") has been a resident of the state of Florida at all relevant times.

10. On August 15, 2018, an Arizona resident ("Offeree") visited the CLL Website and requested a consultation by submitting contact information through the website. Later that day, Offeree received a notification from creditlineleasing@gmail.com that an appointment had been scheduled for August 20, 2018.

1           11. On August 20, 2018, Offeree received a telephone call from Barrueta. During the  
2 telephone call, Offeree told Barrueta that he received a medical retirement of approximately \$4,300  
3 per month and was looking for passive income to supplement his disability income.

4           12. Barrueta told Offeree that he would send him an email with information that  
5 explained the process of "credit leasing" through his company. Barrueta requested that Offeree  
6 review the documents and then call him to discuss the process.

7           13. A few minutes later, Barrueta sent Offeree an email on behalf of TCE titled "The  
8 Credit Engineers - Credit Consulting (& Leasing) Program(s)."

9           14. The email Barrueta sent to Offeree stated that two programs were available: "credit  
10 consulting," where TCE assists a client obtain funding for the client's own use; and "credit  
11 leasing," where TCE "leases" a client's "credit file." The email further stated, "In this case, I have  
12 attached the Credit Leasing docs for you."

13           15. Barrueta's email to Offeree contained a section titled "PERSONAL CREDIT  
14 CONSULTING & LEASING CLIENT EXPERIENCE" which advised potential clients to create  
15 accounts with two credit monitoring services, and then provide their login credentials to TCE along  
16 with their current income.

17           16. Barrueta's email further provided that, if accepted, a client would need to submit to  
18 TCE personal and financial documents including copies of his driver's license, social security card,  
19 bank statements, pay stubs, W-2, and tax returns. The client would also need to submit the TCE  
20 Non-Disclosure Agreement and TCE Credit Profile Consulting Agreement.

21           17. Barrueta attached several documents ("Offering Documents") to his email to  
22 Offeree. The Offering Documents include:

- 23           a. A document titled "Personal Profile," which prompted the recipient to provide  
24 personal information such as name, social security number, mother's maiden  
25 name, driver's license number, income, employer, and login credentials for a  
26 credit monitoring service;

- 1           b. A document titled "THE CREDIT ENGINEERS --- INITIAL DOCUMENT  
2           REQUEST FOR FUNDING" which instructs potential "clients" to create an  
3           account with a credit monitoring service and send the login credentials, as well  
4           as the last four digits of their social security number and their income, to  
5           David@thecreditengineers.com;
- 6           c. A document titled "Limited Power of Attorney," which authorizes TCE to be the  
7           signor's attorney-in-fact with respect to "all items related to Funding," including  
8           signature authority;
- 9           d. A document titled "The Credit Engineers Wiring Instructions," which provided  
10          the routing number and account number for TCE's bank account; and
- 11          e. A document titled "The Credit Engineers – NDA," signed by Varrone as a "Co-  
12          Founder" of TCE, pursuant to which the receiving party agrees to restrict access  
13          to certain information deemed confidential by TCE.

14          18. The Offering Documents also included a written agreement between TCE and the  
15          "credit lessor," titled "THE CREDIT ENGINEERS, INC.: CREDIT PROFILE LEASE  
16          AGREEMENT For Credit Lease Program" ("Agreement").

17          19. Regarding contributions, the Agreement provides, "Credit Lessor shall bring the  
18          required capital and or credit to enter into the Credit Profile Lease Agreement."

19          20. Regarding business decisions and operations, the Agreement provides, "... TCE, for  
20          the purposes herein stated, shall make all decisions affecting the business of the Credit Profile  
21          Lease" and "TCE shall be in charge of the daily operations of the Credit Profile Lease."

22          21. Regarding payments to the "credit lessor," the Agreement provides as follows:

- 23           a. "TCE shall pay the Credit Lessor and they shall receive, from funding, an Initial  
24           payment of \$10,000. This receipt of the \$10,000 shall signify the start of the  
25           Credit Profile Lease."; and
- 26

- 1           b. "After 90 days, the Credit Lessor will receive additional payments OF UP TO  
2           \$5,000 monthly for a period of no more than 36 months. This payment is based  
3           on the total value of the credit profile being leased. Whatever the total value of  
4           all of the credit being leased is, we shall take that value and pay up to 1% of that  
5           total value per month. ie: \$500,000 in total loans funded would equate to a  
6           \$5,000 a month credit lease payment being received.";  
7           c. "TCE will at the 36-month mark, payoff all loans and the monthly credit lease  
8           payment shall cease."; and  
9           d. "All payments made to the Credit Lessor is for the use of their credit."

10       22. Regarding repayment of the loans, the Agreement provides:

- 11           a. "Both parties understand that the repayment is on a best-effort basis."  
12           b. "Credit Lessor will retain a minimum of 6 months' payments from funding.  
13           After the 6 month's payments have been utilized, TCE will provide payments for  
14           loans on a MONTHLY basis to Credit Lessor."; and  
15           c. "In the event payment is not made then TCE will provide resources to cancel  
16           existing loans, credit lines and or clean Credit Lessor's credit to the best of its  
17           abilities."

18       23. Shortly after sending Offeree the email and Offering Documents, Barrueta called  
19       Offeree again to discuss the email.

20       24. During the second call, Barrueta said that he was an independent contractor for  
21       TCE. Barrueta then described the "credit leasing" arrangement as follows:

- 22           a. The client registers with two credit-monitoring services and provides account  
23           access information to TCE so that TCE can evaluate the client's credit.  
24           b. The "client" provides documents, including a Power of Attorney, to TCE which  
25           allows TCE to apply for loans on the client's behalf.  
26

- c. The client opens a bank account for purposes of receiving loan proceeds, transferring the proceeds to TCE, and receiving funds from TCE.
- d. TCE applies for loans on the client's behalf.
- e. The client receives the loan proceeds and then transfers the proceeds to TCE. No further action from the client is required.
- f. TCE invests the loan proceeds with a hedge fund, generating enough profit to pay clients 1% each month and repay the loans in 36 months.
- g. TCE makes the monthly payments on the loans.
- h. The client receives a one-time \$10,000 payment for entering the credit leasing program.
- i. After a three-month waiting period, the client will receive monthly payments from TCE for 33 months.
- j. The amount of the monthly payment is 1% of the total loan proceeds obtained by TCE.
- k. After 33 months, the client's contract with TCE ends and TCE pays off all outstanding loans obtained using the client's credit.

25. During the second telephone call, Offeree told Barrueta that he was concerned about the possibility of TCE not paying off the loans. Barrueta responded that Offeree should not worry about that because TCE has been in business for two years and has many clients.

26. From May through September 2018, Respondent Kosack participated in the offering of the TCE credit leasing agreement to two Arizona residents ("Arizona Investors").

27. The offer to the Arizona Investors provided that:

- a. TCE assists them with obtaining loans;
- b. After receiving the loan proceeds, the Arizona Investors send the proceeds to TCE;
- c. TCE invests the proceeds for the benefit of TCE;

- 1 d. TCE pays each of the Arizona Investors a one-time fee of \$10,000 plus 1% of  
2 the loan proceeds each month for 36 months;  
3 e. TCE makes the monthly payments on the loans; and  
4 f. At the end of 36 months, TCE pays off any outstanding loan balances.
- 5 28. The Arizona Investors agreed to enter the program.
- 6 29. At the request of TCE, the Arizona Investors created accounts with one or more  
7 credit monitoring services and provided TCE with the details of their financial condition as well as  
8 other personal information.
- 9 30. TCE then applied for loans using the Arizona Investors' information, and the loan  
10 proceeds were deposited into the bank accounts opened by the Arizona Investors for purposes of  
11 their agreements with TCE.
- 12 31. Between June 5, 2018, and September 12, 2018, the Arizona Investors wired  
13 \$324,891.12 to TCE.
- 14 32. Certain funds invested were misappropriated by TCE.
- 15 33. Little or none of the Arizona Investors' proceeds were invested with a hedge fund.
- 16 34. The contracts offered by Respondents were not registered with the Commission as  
17 securities.
- 18 35. TCE has repaid the loans obtained by the Arizona Investors.

19 **II.**

20 **CONCLUSIONS OF LAW**

- 21 36. The Commission has jurisdiction over this matter pursuant to Article XV of the  
22 Arizona Constitution and the Securities Act.
- 23 37. Respondents TCE, Kosack, and Barrueta offered or sold securities within or from  
24 Arizona, within the meaning of A.R.S. §§ 44-1801(16), 44-1801(22), and 44-1801(27).
- 25 38. Respondents TCE, Kosack, and Barrueta violated A.R.S. § 44-1841 by offering or  
26 selling securities that were neither registered nor exempt from registration.

1           39.     Respondents TCE, Kosack, and Barrueta violated A.R.S. § 44-1842 by offering or  
2 selling securities while neither registered as a dealer or salesman nor exempt from registration.

3           40.     Respondents TCE and Kosack violated A.R.S. § 44-1991.

4           41.     TCE's, Kosack's, and Barrueta's conduct is grounds for a cease and desist order  
5 pursuant to A.R.S. § 44-2032.

6           42.     TCE's, Kosack's, and Barrueta's conduct is grounds for administrative penalties  
7 under A.R.S. § 44-2036.

8           43.     Respondent Varrone directly or indirectly controlled The Credit Engineers, Inc.  
9 within the meaning of A.R.S. § 44-1999. Therefore, Varrone is jointly and severally liable under  
10 A.R.S. § 44-1999 to the same extent as The Credit Engineers for any violations of the Securities  
11 Act.

12                               **III.**

13                               **ORDER**

14           THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and Respondents'  
15 consent to the entry of this Order, attached and incorporated by reference, the Commission finds  
16 that the following relief is appropriate, in the public interest, and necessary for the protection of  
17 investors:

18           IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Respondents, and any of  
19 Respondents' agents, employees, successors and assigns, permanently cease and desist from  
20 violating the Securities Act.

21           IT IS FURTHER ORDERED that Respondents comply with the attached Consent to Entry  
22 of Order.

23           IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that TCE, jointly and severally  
24 with Varrone and Kosack, shall, under Docket No. S-21069A-18-0418, pay an administrative  
25 penalty in the amount of \$25,000 as a result of the conduct set forth in the Findings of Fact and  
26



1 Conclusions of Law. Payment is due in full on the date of this Order. Payment shall be made to  
2 the "State of Arizona." Any amount outstanding shall accrue interest as allowed by law.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that Respondent Barrueta  
4 shall, under Docket No. S-21069A-18-0418, pay an administrative penalty in the amount of \$2,000  
5 as a result of the conduct set forth in the Findings of Fact and Conclusions of Law. Payment is due  
6 in full on the date of this Order. Payment shall be made to the "State of Arizona." Any amount  
7 outstanding shall accrue interest as allowed by law.

8 For purposes of this Order, a bankruptcy filing by Respondents shall be an act of default. If  
9 Respondents do not comply with this Order, any outstanding balance may be deemed in default and  
10 shall be immediately due and payable.

11 IT IS FURTHER ORDERED that Bryn Kosack is dismissed from this proceeding.

12 IT IS FURTHER ORDERED that all parties shall bear their own attorney's fees and costs.

13 IT IS FURTHER ORDERED, that if Respondents fail to comply with this order, the  
14 Commission may bring further legal proceedings against Respondents, including application to the  
15 superior court for an order of contempt.

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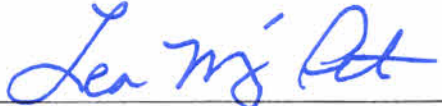
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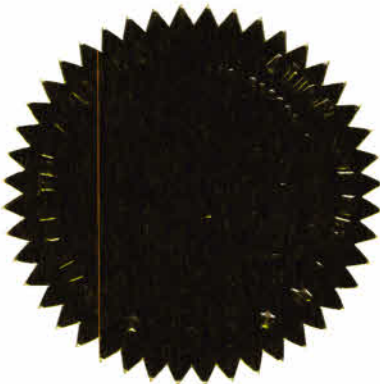
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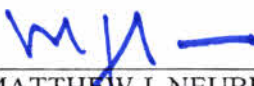
IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

		
CHAIRMAN BURNS	COMMISSIONER DUNN	COMMISSIONER KENNEDY
		
COMMISSIONER OLSON	COMMISSIONER MÁRQUEZ PETERSON	



IN WITNESS WHEREOF, I, MATTHEW J. NEUBERT, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol in the City of Phoenix, this 24 day of October, 2019.

  
MATTHEW J. NEUBERT  
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Kacie Cannon, ADA Coordinator, voice phone number (602) 542-3931, e-mail [kcannon@azcc.gov](mailto:kcannon@azcc.gov).

(CAN)

**CONSENT TO ENTRY OF ORDER**

1  
2           1.       Respondents admit the jurisdiction of the Commission over the subject matter of this  
3 proceeding. Respondents acknowledge that Respondents have been fully advised of their right to a  
4 hearing to present evidence and call witnesses and Respondents knowingly and voluntarily waive  
5 any and all rights to a hearing before the Commission and all other rights otherwise available under  
6 Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code. Respondents  
7 acknowledge that this Order to Cease and Desist, Order for Administrative Penalties, and Consent  
8 to Same ("Order") constitutes a valid final order of the Commission.

9           2.       Respondents knowingly and voluntarily waive any right under Article 12 of the  
10 Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief  
11 resulting from the entry of this Order.

12           3.       Respondents acknowledge and agree that this Order is entered into freely and  
13 voluntarily and that no promise was made or coercion used to induce such entry.

14           4.       Respondents TCE and Varrone acknowledge that they have been represented by an  
15 attorney in this matter. Respondents TCE and Varrone further acknowledge that they have  
16 reviewed this Order with their attorney, Robert Heim of Tarter Krinsky & Drogin LLP, and  
17 understand all terms it contains. Respondents TCE and Varrone acknowledge that their attorney  
18 has apprised them of their rights regarding any conflicts of interest arising from dual representation.  
19 Respondents TCE and Varrone acknowledge that they have each given their informed consent to  
20 such representation.

21           5.       Respondent Kosack acknowledges that he has been represented by an attorney in  
22 this matter. Respondent Kosack further acknowledges that he has reviewed this Order with his  
23 attorney, Brian Schulman of Weiss Brown, PLLC, and understand all terms it contains.

24           6.       Respondent Barrueta acknowledges that he has been represented by an attorney in  
25 this matter. Respondent Barrueta further acknowledges that he has reviewed this Order with his  
26 attorney, Alan Baskin of Baskin Richards, PLC, and understands all terms it contains.

1           7.       Respondents neither admit nor deny the Findings of Fact and Conclusions of Law  
2 contained in this Order. Respondents agree that they shall not contest the validity of the Findings  
3 of Fact and Conclusions of Law contained in this Order in any present or future proceeding in  
4 which the Commission is a party. This paragraph does not apply to any administrative, civil or  
5 regulatory proceedings in which the Commission is not a party.

6           8.       Respondents further agree that they shall not deny or contest the Findings of Fact  
7 and Conclusions of Law contained in this Order in any present or future: (a) bankruptcy  
8 proceeding, or (b) non-criminal proceeding in which the Commission is a party (collectively,  
9 "Proceeding(s)"). They further agree that in any such Proceedings, the Findings of Fact and  
10 Conclusions of Law contained in this Order may be taken as true and correct and that this Order  
11 shall collaterally estop them from re-litigating with the Commission or any other state agency  
12 acting on its behalf, in any forum, the accuracy of the Findings of Fact and Conclusions of Law  
13 contained in this Order. Respondents further agree that, in the event any Respondent or Respondent  
14 Spouse pursues bankruptcy protection in the future, pursuant to 11 U.S.C. § 523(a)(19), the  
15 following circumstances exist:

16           A.       The obligations incurred as a result of this Order are a result of the conduct  
17 set forth in the Findings of Fact and Conclusions of Law in the Order and are for the  
18 violation of Arizona state securities laws, pursuant to 11 U.S.C. § 523(a)(19)(A)(i);

19           B.       This Order constitutes a judgment, order, consent order, or decree entered in  
20 a state proceeding pursuant to 11 U.S.C. § 523(a)(19)(B)(i), a settlement agreement  
21 entered into by Respondents and Respondent Spouse pursuant to 11 U.S.C. §  
22 523(a)(19)(B)(ii), and a court order for damages, fine, penalty, citation, restitution  
23 payment, disgorgement payment, attorney fee, cost or other payment owed by  
24 Respondents and Respondent Spouse pursuant to 11 U.S.C. § 523(a)(19)(B)(iii).

25           9.       By consenting to the entry of this Order, Respondents agree not to take any action or  
26 to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of

1 Fact or Conclusion of Law in this Order or creating the impression that this Order is without factual  
2 basis.

3 10. While this Order settles this administrative matter between Respondents and the  
4 Commission, Respondents understand that this Order does not preclude the Commission from  
5 instituting other administrative or civil proceedings based on conduct that is not addressed by this  
6 Order.

7 11. Respondents understand that this Order does not preclude the Commission from  
8 referring this matter to any governmental agency for administrative, civil, or criminal proceedings  
9 that may be related to the matters addressed by this Order.

10 12. Respondents understand that this Order does not preclude any other agency or  
11 officer of the state of Arizona or its subdivisions from instituting administrative, civil, or criminal  
12 proceedings that may be related to matters addressed by this Order.

13 13. Respondents agree that Respondents will not apply to the state of Arizona for  
14 registration as a securities dealer or salesman or for licensure as an investment adviser or  
15 investment adviser representative until such time as all penalties under this Order are paid in full.

16 14. Respondents agree that Respondents will not exercise any control over any entity  
17 that offers or sells securities or provides investment advisory services within or from Arizona until  
18 such time as all penalties under this Order are paid in full.

19 15. Respondents consent to the entry of this Order and agree to be fully bound by its  
20 terms and conditions.

21 16. Respondents acknowledge and understand that if they fail to comply with the  
22 provisions of the Order and this consent, the Commission may bring further legal proceedings  
23 against Respondents, including application to the superior court for an order of contempt.

24 17. Respondents understand that default shall render Respondents liable to the  
25 Commission for its costs of collection, including reasonable attorneys' fees and interest at the  
26 maximum legal rate.

18. Respondents agree and understand that if they fail to make any payment as required in the Order, any outstanding balance shall be in default and shall be immediately due and payable without notice or demand. Respondents agree and understand that acceptance of any partial or late payment by the Commission is not a waiver of default by the Commission.

19. Respondent Varrone represents that he is the chief executive officer of The Credit Engineers, Inc. and has been authorized by The Credit Engineers, Inc. to enter into this Order for and on behalf of it.

THE CREDIT ENGINEERS, INC.

By:

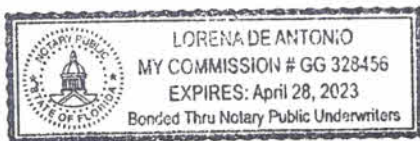
Its: President - CEO

STATE OF Florida )  
County of Broward ) ss

SUBSCRIBED AND SWORN TO BEFORE me this 3 day of October, 2019.

NOTARY PUBLIC

My commission expires: April 28, 2023





David J. Varrone  
DAVID J. VARRONE

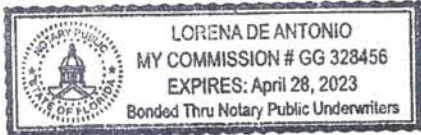
STATE OF Florida )  
County of Broward ) ss

SUBSCRIBED AND SWORN TO BEFORE me this 03 day of October, 2019.

[Signature]  
NOTARY PUBLIC

My commission expires:

April 28, 2023



\_\_\_\_\_  
DAVID R. KOSACK

STATE OF ARIZONA )  
County of ) ss

SUBSCRIBED AND SWORN TO BEFORE me this \_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires:

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\_\_\_\_\_  
DAVID J. VARRONE

STATE OF )  
County of ) ss  
)

SUBSCRIBED AND SWORN TO BEFORE me this \_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires:

\_\_\_\_\_  
DAVID R. KOSACK

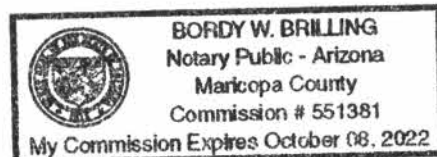
STATE OF ARIZONA )  
County of ) ss  
)

SUBSCRIBED AND SWORN TO BEFORE me this 7<sup>th</sup> day of October, 2019.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires:

10/8/2022





Ernest A. Barrueta  
ERNESTO A. BARRUETA

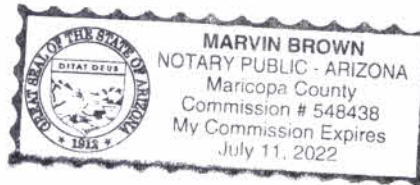
STATE OF ARIZONA       )  
  ) ss  
County of                       )

SUBSCRIBED AND SWORN TO BEFORE me this 7 day of October,

[Signature]  
NOTARY PUBLIC

My commission expires:

July 11, 2022



1 SERVICE LIST FOR: The Credit Engineers, et al.

2

3 The Credit Engineers, Inc.  
4 936 Greenwood Road  
5 Weston, FL 33327  
6 *Respondent*

5

6 David J. Varrone  
7 936 Greenwood Road  
8 Weston, FL 33327  
9 *Respondent*

8

9 Alan Baskin  
10 Baskin Richards PLC  
11 2901 N. Central Ave.  
12 Suite 1150  
13 Phoenix, AZ 85012  
14 *Attorneys for Respondent Ernesto Barrueta*

12

13 Brian Schulman  
14 Weiss Brown  
15 6263 N. Scottsdale Rd.  
16 Suite 340  
17 Scottsdale, AZ 85250  
18 *Attorneys for Respondents David R. Kosack*  
19 *and Bryn Kosack*

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